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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,453	02/26/2002	William T. Dalebout	13914.380.1.1.1	8307

7590 09/02/2005

WORKMAN, NYDEGGER & SEELEY
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Salt Lake City, UT 84111

EXAMINER

RICHMAN, GLENN E

ART UNIT	PAPER NUMBER
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3764

DATE MAILED: 09/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/083,453	Applicant(s) DALEBOUT ET AL.	
	Examiner Glenn Richman	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-24 and 26-39 is/are pending in the application.
- 4a) Of the above claim(s) 1-7, 9-19 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20, 22, 24, 28, 34-36, 38 and 39 is/are rejected.
- 7) ☒ Claim(s) 21, 23, 26, 27, 29-31, 33, 37 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group II in the reply filed on 6/17/05 is acknowledged.

Claims 1-7, 9-19, 32 (claim 32 originally elected in this response, but depends on a non elected claim, so is also withdrawn from consideration) withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 6/17/05.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20, 22, 24, 28, 34-36, 38,39 are rejected under 35 U.S.C. 102(b) as being anticipated by Coody et al (5,868,648).

Coody et al disclose a base (fig. 1), a deck having a rear portion, an opposing front portion, and an endless belt rotatably mounted thereon, said rear portion of said deck being movably mounted on said base (fig. 1), a handrail movably attached to said deck (fig. 1) ,said deck configured to be selectively rotated between an operational

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position in which said deck is positioned for use by a user position thereon, and a storage position in which said deck is positioned proximate to said handrail (fig. 2), a mechanism configured to vary the inclination of said deck relative to a support surface. and to move said deck between said operational position and said storage position (col. 3, lines 56-67), a motor operably coupled to an extension and to said deck, wherein said motor is configured such that moving said extension with respect to said motor changes the incline of said deck and such that continued moving of said extension with respect to said motor causes said deck to move from said operational position to said storage position (col. 3, lines 56-67), said base is capable of stably supporting the treadmill when said deck is in either said operational position or said storage position and when said deck is being repositioned therebetween (fig's 1 and 2), wherein said handrail does not extend beyond said rear end of said base (fig. 1), said mechanism is moveably attached to said deck (col. 3, lines 56-67).

Allowable Subject Matter

Claims 21, 23, 26, 27, 29, 30, 31, 33, 37 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Glenn Richman
Primary Examiner
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